

### **REMARKS**

Claims 1-8, 15, 16, 19, and 21-28 are pending, and claims 1, 2, 5, 15, 16, 19, and 21—28 have been amended herein. The claimed methods now focus on certain preferred embodiments, namely treating or preventing ischemia or hypoxia in mammals, including humans. Other amendments correct typographical errors and claim dependence. None of these amendments is being made for purposes of patentability, but to advance prosecution by focusing on particular commercially relevant embodiments of Applicant's invention. Each of the amendments is also fully supported by the specification and claims as originally filed. For the record, Applicants reserves the right to pursue no longer or not yet claimed inventive subject matter in this or a related application.

Applicant respectfully requests reconsideration in view of the following arguments.

#### **35 U.S.C. §102(a) - Novelty**

Claims 1-8, 15-17, 19, and 21 stand rejected as being anticipated by each of U.S. patent nos. 6,649,362 and 6,613,322. Applicant respectfully traverses because neither cited patent teaches each and every element of the claimed invention. Specifically, neither patent suggests, let alone teaches, a method to prevent or treat an acute ischemic or hypoxic event in an animal, such as a human. As such, neither the '362 nor '322 patent can anticipate the claimed invention. Accordingly, this rejection should be withdrawn.

#### **35 U.S.C. §103(a) – Non-obviousness**

Claims 22-28 stand rejected as being obvious in view of a combination of the '362 and '322 patents. As already explained, neither of the cited patents teaches the prevention or treatment of an acute ischemic or hypoxic event in an animal, and thus even if they may be combined (a point Applicant reserves the right to contest), they do not teach or suggest any method with the scope of any of claims 22-28, each of which depend from claim 19. Accordingly, this rejection should also be withdrawn.

#### **35 U.S.C. §112, First Paragraph – Written Description**

The pending claims stand rejected as failing to comply with the "written description" requirement of 35 U.S.C. §112, first paragraph. Applicant respectfully disagrees, as nothing in the patent law prevents inclusion of a negative limitation in a claim, i.e., the phrase "wherein said agent is not an aminoglycoside" in each of independent claims 1, 2, 5, and 19. A review of the instant application reveals that aminoglycosides are among the classes of compounds described as being useful in practicing the claimed methods. Applicant thus has the right to direct his claims to the other compounds discussed, without inclusion of aminoglycosides, as is indeed the situation here. Accordingly, this rejection, too, should be withdrawn.

#### 35 U.S.C. §112, Second Paragraph

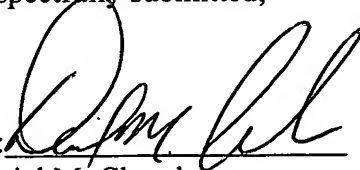
Each of the pending claims also stands rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Applicant respectfully traverses, but notes that in any event the bases for this rejection have been obviated by the amendment above. Given this, Applicant respectfully asks that this rejection also be withdrawn.

#### Conclusion

Applicant respectfully submits that the pending claims are in condition for allowance, and he earnestly solicits prompt issuance of a notice to such effect. Of course, if any issue remains outstanding that may be addressed without the need for an additional formal action and response thereto, the Examiner is encouraged to telephone the undersigned in order to resolve such issue(s).

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Respectfully submitted,

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